

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

**Case No. 3:09-cr-030
also Civil Case No. 3:10-cv-245**

RODERICK L. SAMPLE

,

District Judge Thomas M. Rose

Defendant.

Magistrate Judge Sharon L. Ovington

ENTRY AND ORDER OVERRULING SAMPLE'S OBJECTIONS (Doc. #37) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE'S REPORT AND RECOMMENDATIONS (Doc. #34) IN ITS ENTIRETY; DENYING SAMPLE'S § 2255 MOTION AND DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY

This matter is now before the Court pursuant to Objections (doc. #37 in criminal case) filed by Roderick L. Sample (“Sample”) to the Report and Recommendations issued on October 14, 2011, by Magistrate Judge Sharon L. Ovington. The Court originally adopted Magistrate Judge Ovington’s Report and Recommendations without timely objection but vacated this order when Sample’s Objections were later filed pursuant to the “mailbox rule.” The time has run and the Government has not responded to Sample’s Objections.

The District Judge has reviewed the findings of Magistrate Judge Ovington. The District Judge has also made a de novo review of the record in this case, including Sample’s Objections, pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). Upon consideration of the foregoing, the Court finds that the Objections to the Report and Recommendations (doc. #37 in the criminal case) are not well-taken and they are hereby OVERRULED. In addition to the findings set forth

in the Report and Recommendations, the Court notes that, when asked at his plea hearing whether he had any kind of drugs, alcohol or medication in the last 24 hours, Sample responded "No, I haven't."

The Magistrate Judge's Report and Recommendations is ADOPTED in its entirety. Sample's Motion To Vacate pursuant to 28 U.S.C. §2255 is DENIED. Also, because reasonable jurists would not disagree with this conclusion, Sample is denied any requested certificate of appealability.

DONE and **ORDERED** in Dayton, Ohio, this Nineteenth Day of December, 2011.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Roderick L. Sample at his last address of record
Counsel of Record